

UNITED STATES DISTRICT COURT

for the
District of South Dakota
Western Division

In the Matter of the Search of:

USA v. 23-128-05

Case No. 5:23-mj-130

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See **ATTACHMENT A**, which is attached to and incorporated in this Application and Affidavit

located in the District of South Dakota, there is now concealed *(identify the person or describe the property to be seized)*:

See **ATTACHMENT B**, which is attached to and incorporated in this Application and Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
 36 CFR 261.9(b)
 18 U.S.C. § 3; SDCL 32-4-10

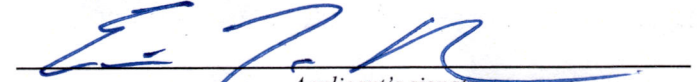
Offense Description
 Removing any natural feature or other property of the US
 Possession of Vehicle with removed vehicle identification number

The application is based on these facts:

☒ Continued on the attached affidavit, which is incorporated by reference.

☐ Your applicant requests that no notice be given prior to the execution of the search warrant, i.e., "no knock", the basis of which is set forth in the attached affidavit.

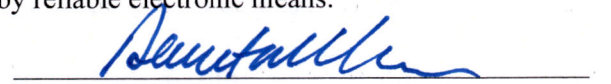
☐ Your applicant requests authorization to serve the search warrant any time day or night pursuant to Fed. R. Crim. P. 41(e)(2)(A)(ii), the basis of which is set forth in the attached affidavit.


 Applicant's signature
 Eric L. Nelson
 Printed name and title

Sworn to before me and: ☒ signed in my presence.

☐ submitted, attested to, and acknowledged by reliable electronic means.

Date: July 17, 2023


 Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate
 Printed name and title

ATTACHMENT A

DESCRIPTION OF LOCATION TO BE SEARCHED

A pickup vehicle located in secure evidence storage in Rapid City, SD, currently placed by United States Forest Service. The vehicle has no visible vehicle identification number. It is depicted below:



ATTACHMENT B

DESCRIPTION OF ITEMS TO BE SEIZED

All records and evidence relating to violations of 18 U.S.C. § 13, SDCL 32-4-10 and 36CFR 261.9(b) Removing any natural feature or other property of the US – unauthorized collection of natural resources, government property without specific authorization to collect or remove, those violations involving Paris Wiand, Anne-Marie Lynn and other known and unknown persons occurring on or about July 15, 2023, including:

1. Rocks, fossils, archaeological resources and other similar natural items.
2. Records, tools and information relating to the procurement, transportation, and retention of rocks, fossils, and other archaeological resources.
3. Records and information relating to vehicle possession such as vehicle titles, registrations and other paperwork tending to show the identification of ownership and/or controlling parties of vehicles.
4. Cell phones, tablets, computers, and electronic devices used as a means to commit the violations described above, that may contain records or information relating to violations of the statutes listed above.
5. Any contraband items, including controlled substances.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

IN THE MATTER OF THE SEARCH OF:

USA v. 23-128-05

Case No. 5:23-mj- **130**

AFFIDAVIT IN SUPPORT
OF SEARCH WARRANT

STATE OF SOUTH DAKOTA)
)
COUNTY OF PENNINGTON)

I, Eric Nelson, being duly sworn, deposes and states under penalty of perjury that the following is true to the best of my information, knowledge and belief.

INTRODUCTION AND AGENT BACKGROUND

1. I am a Law Enforcement Officer with the United States Forest Service (USFS), in Rapid City, South Dakota. I have held this position for almost 23 years. I attended and successfully completed training at the Federal Law Enforcement Training Center as well as field training. Since starting my position, I have received ongoing training since that time. In my experience, I have investigated incidents involving narcotics interdiction, off road traveling on federal lands, and other misdemeanor activities on public lands. I have also assisted in investigations involving protection of natural resources.

2. I affirm that I am an “investigative or law enforcement officer” within the meaning of 18 U.S.C. § 2510(7), and authorized by law to conduct investigations and make arrests for offenses in Titles 8, 18 and 21 of the United States Code. I am a “Federal law enforcement officer” within the meaning of Fed. R. Crim. P. 41(a)(2)(C) and (b).

3. I submit this affidavit in support of an application for a warrant pursuant to Federal Rule of Criminal Procedure 41, authorizing federal law enforcement officers to search a vehicle, located at a secure evidence facility in Pennington County, SD, further described in Attachment A (hereinafter "SUBJECT VEHICLE"), and believed to hold evidence of violations of 18 U.S.C. § 13 and SDCL 32-4-10, which prohibits possessing a vehicle without a vehicle identification number, 36 CFR 261.9(b), Removing any natural feature or other property of the US, and 36 CFR 261.3A, Interference with any Forest Officer. I have personally participated in the investigation set forth below. I am familiar with the facts and circumstances of the investigation through my personal participation, from discussions with other law enforcement, from information provided by sources of information, and from law enforcement's review of records and reports relating to the investigation. Because this affidavit is being submitted for the limited purpose of securing an order authorizing the search of the SUBJECT VEHICLE described in Attachment A for the information listed in Attachment B, I have not included details of every aspect of the investigation.

FACTS IN SUPPORT OF PROBABLE CAUSE

4. On July 15, 2023, law enforcement was informed of vehicles offroad within the Indian Creek drainage area on the Buffalo Gap National Grasslands. This area is located within Pennington County, South Dakota. When law enforcement arrived, officers observed a white Ford Expedition parked on a road and another vehicle off road within the creek drainage area. As I approached the Expedition, three male occupants asked about looking for rocks. I explained that was acceptable but vehicles could not

travel off roadways. The occupants informed me they were waiting for their friends who they claimed were eating breakfast. The Expedition and its occupants left the area before law enforcement identified them.

5. At approximately 10:48 a.m., I contacted a male and female with the other vehicle that was off road in the drainage area. Their vehicle appeared to be an early 2000s Toyota pickup painted in camouflage with South Dakota license plate 2DW 626. The male was uncooperative and would not provide any identification or name. Eventually he said his name was Dale. While he was getting into the bed of the truck to move around equipment and put rocks into a backpack, he claimed to have no association with the vehicle. He denied knowing the owner of the vehicle.

6. The female was identified as Anne Marie Lynn from Marcus, IA, based on a driver's license. She claimed the SUBJECT VEHICLE was borrowed from a friend named Kyle but had no other information. Upon request, she went into the vehicle to look for a registration and insurance but reported back she could not find any. I noted that Lynn went in and out of the SUBJECT VEHICLE several times.

7. The male continued to argue with law enforcement and became physically agitated, shaking, and clenching and unclenching his fists. Based on his behavior, I removed my taser. After that, the male became more cooperative and was detained in handcuffs. He then identified himself as Paris Wiand. He informed me he was a parole absconder and had active warrants. While I was attempting to secure Wiand, Lynn removed a backpack and other personal items from the SUBJECT VEHICLE.

8. I received information that the license plates on the SUBJECT VEHICLE came back to a 1989 dark grey Mazda pickup registered to Chase Jo Beatuto in Rapid City, SD. The vehicle identification number (VIN) was obscured and possibly removed from the dash of the SUBJECT VEHICLE. As law enforcement was attempting to determine the VIN, it became apparent the vehicle had been locked. When asked, Lynn denied knowing what happened to the keys. Eventually she indicated she had tossed them next to the nearby creek. Law enforcement was unable to locate the keys. It is possible the keys are within the vehicle.

9. Law enforcement arrested Wiand and Lynn for off road travel (36 CFR 261.13), interference with forest service officer engaged in or account of performance of official duties (36 CFR 261.3A), and giving false, fictitious or fraudulent report to a Forest Officer (36 CFR 261.3B).

10. Law enforcement records confirmed that Wiand had an active arrest warrant in the state of South Dakota for being a parole absconder for an offense in Yankton, South Dakota. Wiand has a lengthy criminal history with numerous felony and misdemeanor convictions, including simple assault, drug possession, and DUI. Lynn has a criminal history of arrest for drug possession.

11. The bed of the pickup was full of items, including what appears to be equipment and rocks, or fossils or possibly both. I briefly looked at the rocks and possible rocks that were found piled up on the tailgate that Wiand had been attempting to put in his backpack. I noted one was a fossilized baculite (a non-vertebrate, fossilized shell that is not illegal to possess). I did not have time to evaluate all of the visible items.

12. The initial reporting party, a nearby rancher, informed me he had seen the SUBJECT VEHICLE and Expedition traveling together and off road in and along the Indian Creek drainage.

13. South Dakota Law prohibits knowingly buying, selling, offering for sale, receiving, or having in his possession any titled motor vehicle without the original manufacturer's vehicle identification number. SDCL 32-4-10.

14. The SUBJECT VEHICLE was towed to a secure location.

15. During my tenure in law enforcement, I have been involved in numerous investigations of persons attempting to remove fossils and rocks from federal property. I have executed search warrants for vehicles, residences, hotel rooms, and storage units as well as search warrants for devices, records, ledgers, and documentation reflecting the sale of controlled substances.

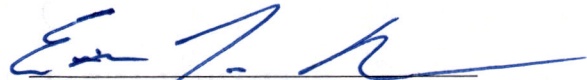
LIMIT ON SCOPE OF SEARCH

I submit that if during the search, law enforcement finds evidence of crimes not set forth in this affidavit, another agent or I will seek a separate warrant.

CONCLUSION

I submit that based on the facts set forth in this affidavit, there is probable cause to believe the SUBJECT VEHICLE described in Attachment A contains evidence, fruits, and or instrumentalities of violations of 18 U.S.C. § 13 and SDCL 32-4-10, which prohibits possessing a vehicle without a vehicle identification number, 36 CFR 261.9(b), Removing any natural feature or other property of the US, and 36 CFR 261.3A, Interference with any Forest Officer. Therefore, I request permission to search

the SUBJECT VEHICLE in Attachment A for the evidence, fruits, and instrumentalities identified with particularity in Attachment B. Based on the foregoing, I request that the Court issue the proposed search warrant.



Eric Nelson, Law Enforcement Officer
United States Forest Service

Sworn to before me and: ☒ signed in my presence.

☐ submitted, attested to, and acknowledged by reliable electronic means.

This 17th day of July, 2023.



Daneta Wollmann
United States Magistrate

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of

USA v. 23-128-05

Case No. 5:23-mj-130

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the District of South Dakota (identify the person or describe the property to be searched and give its location):

See **ATTACHMENT A**, attached hereto and incorporated by reference

I find that the affidavit, or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

Evidence of a crime in violation of 18 U.S.C. § 13 and SDCL 32-4-10, 36 CFR 261.9(b), and 36 CFR 261.3A, Interference with any Forest Officer, as described in **ATTACHMENT B**, attached hereto and incorporated by reference.

I find that the affidavit, or any recorded testimony, establishes probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before July 31, 2023 (not to exceed 14 days)

☒ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Daneta Wollmann.
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30). ☐ until, the facts justifying, the later specific date of _____.

☐ I find that good cause has been established to authorize the officer executing this warrant to not provide notice prior to the execution of the search warrant, i.e., "no knock".

Date and time issued: 7-17-23 10:10am


Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate
Printed name and title

cc: ANSA Rich

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